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SUBJECT: COSTA RICA: STRATEGY FOR ADVANCING IPR

SUBJECT: COSTA RICA: IPR TRAINING WEEK A SUCCESS  
REF: SAN JOSE 168

11. (U) SUMMARY: The Judicial School of Costa Rica hosted a three-day workshop in June for 17 Costa Rican judges, supported by the U.S. Department of Justice's Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) and Embassy San Jose. Participants drafted a bench book that will serve as a guide for judicial cases on intellectual property rights (IPR). As a counterpoint to that effective "hands-on" activity, producers of intellectual property -- musicians, film makers, and software engineers -- made presentations on the necessity to enforce IPR laws in order to protect and grow cultural and economic assets. Guest judges from Argentina, El Salvador, Puerto Rico, and Florida assisted in the bench book drafting process and provided experience and insight on IPR issues for the participating local judges. Complementing the judges' workshop, Post organized a private sector attorney round table on IPR featuring several of the visiting judges. In addition, Post programmed an IPR speaker who presented basic, intermediate, and advanced presentations to three different audiences. This IPR week is another component in Post's overall strategy to improve IPR enforcement in Costa Rica (reftel). END SUMMARY.

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TRAINING WITH A DEADLINE  
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12. (U) Embassy San Jose organized a "Judicial Exchange" workshop June 23-25, 2009 which facilitated the drafting of a bench book for Costa Rican judges to use in resolving IPR cases in accordance with local laws and treaty obligations. Costa Rica's Judicial School, led by Director Marvin Carvajal, hosted the workshop. OPDAT provided budget support through State INL funds. During the first session, OPDAT's Robert Lipman established the importance of a bench book, which would serve as a compendium of IPR law and precedent for judges to use as a guide when hearing IPR cases. OPDAT's programming included four guest judges: Ariel O. Lijo of Argentina, Sandra Luz Chicas Bautista of El Salvador, Juan M. Perez Gimenez of Puerto Rico, and Virginia M. Hernandez Covington from the U.S. Judges Lijo and Chicas emphasized that an IPR bench book has been very relevant to IPR enforcement in their respective countries.

13. (U) To help the participants understand how the bench book would be used, Lipman explained how the Toyota Business Model strategy (plan, implement, learn, and improve) could be applied to a bench book. The judges would draft a plan in the form of a bench book, implement that plan by presiding over cases, learn from the result of implementation, and make the necessary changes that will come about as legislation evolves and new laws or violations take place. Thus, a bench book drafted by Costa Rican judges establishes "buy-in" to IPR, serves as a resource with IPR cases, and becomes a

dynamic document.

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WORKING IN GROUPS WITH EXPERT HELP  
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14. (U) The local judges formed four groups to cover specific IPR topics, including: (1) principles underlying intellectual crimes, (2) techniques of investigation, (3) possible crimes, and (4) confiscation and seizure. Each group researched the relevant Costa Rican laws concerning their topic and compiled a presentation/viewpoint on that topic. During this "hands-on" drafting experience, the guest judges shared their expertise and insights on IPR cases on how to compile the bench book. OPDAT was pleased that the Costa Ricans were able to draft a bench book in two and one half days.

15. (U) The following Costa Rican judges participated:

- Adriana Jarquin Coto - Penal Judge
- Elizabeth Montero Mena - Penal Judge
- Mario Porras Villalta - Penal Judge
- Marjorie Alvarez Morales - Penal Judge
- Alvaro Hernandez Aguilar - Civil Judge
- Elieth Vargas Ulate - Civil Judge
- Guillermo Guila Alvarado - Civil Judge
- Juan Carlos Brenes Vargas - Civil Judge
- Juan Carlos Sanchez Benavides - Civil Judge
- Marvin Arce Portuguese - Civil Judge
- Estefana Brenes Alfaro - Traffic Judge
- Marco Troyo Cordero - Constitutional Court room
- Jorge Luis Cambronero Jimenez - First Court room
- Manuel Fernando Jimenez Aguilar - First Court room
- Alejandra Valenciano Chinchilla - Third Court room
- Ricardo Rodriguez Vega - Special Collection Judge
- Ronald Eduardo Segura Mena - Prosecutor, Economic Crimes

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HOW TO UNDERSTAND IPR? TALK TO A CREATIVE PERSON  
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16. (U) During the workshop, invited artists, producers and media experts made presentations, joined discussions, and shared their understanding and experience on IPR from the "victims" point of view. Mauricio Cortez, General Manager of International Channel DestinosTV, writes, produces, and shoots documentaries showing the beauty of Costa Rica. He explained the importance of protecting intellectual property by directly stating, "Without our material, we have no business." He spoke of the importance of sales of images to foreign buyers and noted that local producers of video images for tourism or promotional purposes often rob images with little concern for IPR.

17. (U) The following guest speakers made appearances at the three day workshop:

- Marvin Araya, Director of the Philharmonic Orchestra Costa Rica and President of the Artist's Association (AIE);
- Mauricio Cortes, General Manager of International Channel DestinosTV;
- Arnoldo Castillo, Singer/Producer;
- Luis Monje, Music Producer; and
- Alex Mora, General Manager of Tecapro, together with Otto Rivera, Executive Director of Costa Rican Chamber of Information Technology and Communication (CANTIC).

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TRAINING REVEALS THE NEED FOR MORE TRAINING  
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18. (U) By workshop's end, the participants concluded that they needed to continue working on the bench book draft to ensure that a practical, finished product be completed. As a result, post-workshop, the participants requested more training as they

realized that they knew little about prosecuting IPR violations. With a new enthusiasm towards the subject, plans are underway for future training sessions.

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A PRIVATE SECTOR ROUND TABLE  
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¶9. (U) The law firm of Arias & Munoz, in conjunction with Embassy San Jose, held a round table session on June 22, 2009 (the day prior to the workshop) at the firm's offices. The round table was designed to encourage private law IPR practitioners by taking advantage of the presence of the visiting foreign judges. Maria del Rocio Cerdas Quesada from the College of Lawyers of Costa Rica presented an entertaining and informative overview of Costa Rican laws for IPR. The visiting judges and local participants then followed with a general discussion. The presentation helped set the tone for the next few days by providing a primer of where IPR law stands in Costa Rica and the status of enforcement. It also provided an excellent background for the visiting judges (three of four participated). Many local lawyers appreciated the presentation and tagged the seminar as a success.

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SPEAKING OUT ON IPR  
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¶10. (U) Federal Trade Commission attorney Armando Irizarry participated in a multi-purpose Econ-Public Affairs speaker program on IPR. Irizarry, on TDY in Honduras to assist with competitiveness in the CAFTA-DR countries, presented programs to three different audiences June 29-30 and July 1, in San Jose. On June 29, he offered an IPR overview to students at the University of Costa Rica, and later presided over a discussion with CANARA (National Chamber of Radio). On June 30, he addressed a larger and more diverse group at the National Assembly, where Deputy Fernando Sanchez (Liberacion) and Embassy San Jose Econ Chief Mark Kissel introduced Irizarry and underscored the importance of his message. The Assembly presentation was followed by another discussion with a select private sector group hosted by AmCham. On July 1, Irizarry directed his IPR presentation to the theatrical community in Costa Rica, addressing the often complex process of obtaining rights as an integral part of mounting artistic productions. Irizarry was well received by all three audiences. However, Post realized that presenting "advanced sessions" on IPR requires more upfront planning and will work this into future programming.

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NEXT STEPS  
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¶11. (U) There are five important "next steps" that will continue the work of the three-day workshop. First, the bench book exists in draft form which will be refined and updated. The Judicial School proposed an electronic forum to facilitate communication among judges for editing and revising the bench book and sharing ideas, information, and concerns on IPR. Second, the bench book will be completed and distributed throughout Costa Rica. Third, the Judicial School will present several IPR training sessions at the University of Costa Rica while CAMTIC will work with the Judicial School to train judges in software licensing and IPR protections. Fourth, OPDAT's Lipman proposed a study trip to Puerto Rico by four of the participants and Director Carvajal. Hosted by Judge Perez-Gimenez, the participants will observe first-hand the judicial management of IPR cases.

¶12. (SBU) Independent of the above, Embassy San Jose needs to develop the fifth step for the private sector. Criminal and civil case prosecutions are both important to advancing IPR in Costa Rica. Though we do not have a specific plan at the moment, we will work with key private sector attorneys and associations on the form and content of future training for this important part of advancing IPR in Costa Rica. Given the Attorney General's stated focus on higher priority criminal cases, and the relatively few GOCR resources dedicated thus far to IPR enforcement and prosecution, private sector attorneys can play a key role in taking IPR cases to the court system and pushing them to completion.

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COMMENT  
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¶13. (SBU) The "Judicial Exchange" training sessions exceeded the expectations of all involved, with notable camaraderie formed within a circle of Costa Rican judges, and between Costa Rica and the U.S., on IPR. In addition, Costa Rican judges now have a link with colleagues in Argentina, El Salvador and Puerto Rico, Latin American societies that are advancing IPR protection. Though the workshop was the first phase of in-country training, it complements ongoing Global Intellectual Property Academy training and serves to expand the number of Costa Ricans participating in USG IPR training. Our IPR strategy aims to influence as many decision makers and practitioners as possible on IPR enforcement and prosecution.

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